

MINUTES

SALINA BOARD OF ZONING APPEALS

City Commission Room 107

Thursday, August 16, 2007

MEMBERS Funk, Morse, Sanborn, Schmitt, Wilson and Worth
PRESENT:

MEMBERS

ABSENT: Lange

STAFF

PRESENT: Andrew, Asche and Burger

Item #1. Approval of the minutes of the regular meeting of July 19, 2007.

The minutes of the regular meeting held on July 19, 2007 were approved as presented.

Item #2. Application #V07-7, filed by Raymond and Patricia Cutler, requesting a front yard setback variance of 13 ft. from 20 ft. to 7 ft. on Harsh Avenue to allow construction of a 20 ft. by 24 ft. detached garage. The subject property is legally described as Lot 20, Block 30 in the Military Addition to the City of Salina, Saline County, Kansas and is addressed as 919 N. 10th Street.

Mr. Andrew stated Mr. Herrs will be presenting the staff report.

Mr. Herrs presented the staff report with visual graphics which is contained in the case file.

Mr. Schmitt asked are there any questions of Dean or the staff?

Mr. Worth stated I have one question. The fact that it was advertised one way and it's turned out it will be another way, will that have a legal bearing on this?

Mr. Herrs stated it was my understanding, and like I said it was my fault that this came out this way, but both carports and garages are accessory uses and they are both required to have the same setback. So I didn't see the issue of erroneously advertising it. However, when you stop and think about it, carports and garages are very different, especially when they are sitting 7 ft. to 13 ft. back from the property line. As far as having legal issues I'm not sure about that and maybe Dean could answer that.

Mr. Andrew stated that's why we don't feel comfortable about it. You are to evaluate whether you think a variance is justified. Our position is as a

staff is we don't feel good having sent letters to the neighbors telling them a carport was proposed to be built when in fact it was a garage that was proposed to be built. We think there was not a fair opportunity for the adjoining property owners to clearly understand what is being proposed. That falls to us and it also falls to us that we accepted an application and processed it and never really got any plans depicting what it was that is proposed to be built.

Mr. Schmitt asked do we just delay until the 20th of September?

Mr. Andrew stated that is your judgment. You need to hear from the applicant and you need to ask any questions that you feel are relevant. We feel that whether it's a garage or a carport, if you could go back to the view of the fence there John, or the fact that even if this was just a driveway or maybe when the permit was issued there was no recognition that this was a driveway, but every driveway that intersects with a street has a vision clearance triangle whether it's heading in or backing out. This really shouldn't be that way. It should only be 3 ft. high because of the driveway or the fence should be pulled back a sufficient distance away from the property line so that if you're backing or even heading out of that driveway you can see something before you get to the property line. This is not a good situation to come out from behind the fence like that either backing or head out and not being able to see either direction. All I can think of is when the fence permit was issued there was no knowledge that there was actually a driveway cut there. Even if there was no carport or garage built that is not an acceptable situation as far as the fence and driveway.

Mr. Funk asked do we know when the fence was built?

Mr. Andrew stated in 1995.

Mr. Funk asked the slab was built in 1976? Was there supposed to be a permit for that?

Mr. Andrew stated you don't need a permit to do concrete flat work on your property. I don't know the date on the driveway approach there. It may have been there for 50 years. It's hard to say, but based on my review it's not real clear when the fence permit was issued that anybody understood that there was a driveway there.

Mr. Schmitt asked should I call Raymond and Patricia up?

Mr. Andrew stated unless there are additional questions that you have of staff. John would you want to show the information that we received or that the building inspector received today? If you want to go ahead to that one John.

Mr. Burger asked the sample slide?

Mr. Andrew stated yes, the building. This is not this particular plan. The plan that we understand they are working on is with a company called ESH that has pre-fabricated or manufactured metal buildings and this is an example of another ESH building or garage that was put up at another location. We were going to at least have this available to give you some indication of appearance. I think this building is probably bigger than what is being proposed. But to give you an idea ESH is a metal building manufacturer. This is what it looks like actually built but again the orientation is different. Can we recall or can you read the dimensions on that John as far as width?

Mr. Burger stated in this particular case it was 24 ft. deep and 36 ft. wide.

Mr. Sanborn stated it says 20 ft. x 24 ft.

Mr. Andrew stated if you have no more questions of staff then we need to hear from the applicant. Part of our concern, it's only our concern and you're not bound by it, is whether the reason no neighbors were concerned or responded is because they thought it was carport. We don't know that. That's the only matter that is of concern to us. We are the ones who sent the letter and told them it was a carport and we don't feel good about that.

Mr. Wilson asked as I recall Mr. Andrew if a person builds a 6 ft. fence he doesn't really need a building permit does he?

Mr. Andrew stated in 1995 you did.

Mr. Wilson asked but now you don't?

Mr. Andrew stated as of October 2001 you no longer need a fence permit but you still have to construct it in accordance with the fence setback and height requirements. It's not a complete comparison but imagine if you would an alley that comes out and intersects with the street and at the corner of the alley and the street you had 6 ft. fence along the alley and 6 ft. fence at the street. You would not be able to see anything coming out of that alley or if there was a sidewalk if anyone was there. The approach that we take is either you taper the fence back physically or you taper the fence down to 3 ft. in height so that it can be seen over. We think there are a couple of ideas here, one would be to lower the fence, the other to pull it back even with the garage. Those are our ideas. I think that information is probably new to the applicants. But that is the thing that we observed in relation to the driveway and the fence.

Mr. Schmitt asked Gene did you have a question?

Mr. Sanborn stated no, I think it was answered.

Mr. Schmitt asked would the applicant's care to address the Board? Please state your name and address.

Patricia and Raymond Cutler, 919 N. 10th Street, stated we had talked to the neighbors previously before we had talked about putting a garage in. There is only one neighbor we do not know because it is a rental property. The other two, right behind us and right across the street, they have no trouble with us putting up a garage. They thought we should have put one up years ago. Some of these items I did not know. I did not know the procedure. I understand why you have rules and regulations. We planned on when we built the garage to move that fence at the alley back to the edge of the garage. Which right now it has parking at 13 ft. So the garbage trucks have 13 ft. to look either way and there have been no problems with them coming out of the alley. The person right behind us has a privacy fence that runs from the alley to the edge of their garage and it's right even with ours and it doesn't seem like it has made any problems with traffic coming in and out. I did not realize that we would need to do something with our other fence. We could possibly cut it back down. It is 24 ft. from the edge of the driveway to where our gate is. We could go back like 24 ft. and start tapering it down from 8 ft. to 4 ft. or if we have to down to 3 ft. At this stage we could also change the size of our garage from a 24 ft. to a 20 ft. That would set it back another 4 ft. so that would be about 12 ft. back instead of 13 ft. It's going to be a metal building, the same color as our house, they are going to match the trim to match our house and the roof will be the same as matching our roof. I do not know what else to say. Like I said, we can change the size of the garage. I was told when we started about getting the plans and they said until I went through the review board that the paper I had stating from the contractor has the size of the posts they're going to use. It's going to have an 8 ft. ceiling, it tells what color and what it's going to be made out of and that that's all that I would have needed up here. The reason that I would need the prints would be when I got the permit. We've been looking for this for years and we're finally able to do it and now we're to a place where we possibly won't be able to.

Mr. Funk asked do you use the slab right now?

Mrs. Cutler stated yes we do.

Mr. Funk asked you do what with it?

Mrs. Cutler stated I park my car on it.

Mr. Funk asked do you open and close the gate?

Mrs. Cutler stated I open and close the gate every time.

Mr. Funk asked do you just have one vehicle?

Mrs. Cutler stated no we have two. We open the gate and when you come out the tail end of my car is just barely at the end of the street. So I can see both ways. I have started using that and we've been having windshields broken out and eggs thrown on the cars. So I started using it in the yard but I'd rather have it inside of a garage at our age right now.

Mr. Funk asked this is the only drive or parking on that lot?

Mrs. Cutler stated that is the only one. That sets back towards the alley.

Mr. Funk asked did you build the little garden shed that is shown?

Mrs. Cutler stated that garden shed is the back of a cookie truck. My dad worked for Sunshine Biscuit Company when they had trucks when they drove their trucks underneath it and the beds of their trucks would set down and he would deliver cookies out of them. When they stopped the Sunshine Biscuit Company here they sold these trucks to use for sheds. He drove it down the alley and set it on the property. At that time we did not have the fence. We've used it for a shed ever since. The only way I'd get it out or get it moved is to get a wrecker truck in there because it's setting on like steal bolts going outside of it. There is no other way that we'd be able to move it.

Mr. Cutler stated these box trailers would sit on stilts and a truck would back up underneath them and lift up and the stilts would be pulled out this way. When you put it there you would just set it down on this block. There is no way we could get it up.

Mrs. Cutler stated like I said, we would be willing to change the size of the garage and go back down to 20 ft. and we'd come closer to the 13 ft. If we need to we could go back one more foot, I think there is 7 ft. from the edge of the concrete to where the shed it now. So we could go back one more foot which would make it 13 ft. We could cut the fence down. I would have to something different in to keep my dogs in the yard but we could come up with something.

Mr. Schmitt asked are there any other questions?

Mr. Wilson asked the new garage would be 20 ft. deep and what would be the width of it?

Mrs. Cutler stated 20 ft.

Mr. Wilson asked is that a one car garage?

Mrs. Cutler stated no, it's a two car garage. It will have one big overhead door and one walk-in door.

Mr. Wilson stated okay.

Mr. Schmitt asked if we approve it would you be able to satisfy Dean and his staff of the dimensions and everything?

Mrs. Cutler stated I could get a hold of the contractor. The contractor told me that he had all different sets of drawings already listed here with the City of Salina in their files for all the different size buildings that they make. But I can get him to fax me some drawings and bring them up.

Mr. Schmitt asked Dean if they get it approved would they work with you?

Mr. Andrew stated we didn't list it as a choice because it wasn't really clear that it was an option, but your choices are they are requesting to go from 20 ft. to 7 ft. and you can't approve anything closer than 7 ft. but you can approve any distance between 20 ft. and 7 ft. If you want to condition it on the adjustment of the fence to meet the City's vision clearance requirements then we would simply work with them on the building permit side of things. But I think in any motion to approve you need to specify what you think the appropriate setback is. If you think 7 ft. is ok then you need to specify that. If you think a 12 ft. setback is sufficient then you need to specify that. If you think it needs to be 13 ft. you would need to specify that. I think we can work with them on the fence but I think you would want to make clear that there was a condition that they have to adjust the fence to allow for proper vision clearance.

Mr. Schmitt asked are there any other questions?

Mr. Funk stated I guess I'm of the opinion that the structure should be set back at least as far as the existing house, which is the 13 ft. 6 inches. I think you're saying that that could be done?

Mrs. Cutler stated we could shorten the garage and then we'd have to add on to the slab and get closer to our shed. I don't know what our variance is.

Mr. Funk stated as far as the lot is concerned I think that ought to be about the minimum and then realign the fence. I don't like this business of cutting it down. But realign it to get the necessary sight triangles that the Planning Division would be comfortable with.

Mrs. Cutler stated I don't know how many feet we have between the existing shed to where we could have the side of the garage.

Mr. Funk stated this says 7 ft. 9 inches between the slab and your garden shed.

Mrs. Cutler stated that is what it is now but I don't know what the city requires between buildings.

Mr. Andrew stated a minimum of 3 ft. So there is 4 ft. to work with there. Although we would certainly hope that they wouldn't need to add on to their slab by that amount.

Mr. Schmitt asked is there anyway that the shed opens towards the garage?

Mrs. Cutler stated no the shed opens towards the east so it would not open toward the garage.

MOTION: Mr. Sanborn stated I make a motion that we postpone consideration of Application #V07-7 until we get more information. It sounds like they are willing to go back to a 13 ft. 6 inch setback and to request a lesser variance to where they could build a 20 ft. by 20 ft. structure. I feel they need time to meet with the City staff and discuss the type of fence they would like to put up as well as a little more information on the structure. I feel then we'd be able to make a much better decision at our next meeting.

SECOND: Mr. Wilson.

Mr. Schmitt stated it has been moved and seconded to postpone consideration of Application #V07-7 until the September 20th meeting. Any further questions or comments?

Mr. Sanborn stated that would let them also re-advertise this as a garage.

Mr. Worth asked is that satisfactory with the applicant that we postpone it for that time?

Mrs. Cutler stated if we can get a garage I'm willing to almost do anything.

Mr. Sandborn stated it sounds like you're willing to make some compromising and we're trying to work with you too.

Mrs. Cutler stated I understand that you have your rules and regulations. Like I said, in our area of town when you look at the other houses and garages you wonder why can't you. It's a little frustrating but we will work with the City to have it proper. The driveway was put in at the same time the slab was poured.

Mr. Schmitt asked are there any other questions or comments? Seeing none we are ready for a vote. All those in favor say "aye", opposed same sign.

VOTE: Motion carried 6-0.

Mr. Andrew stated what we will do is we will re-advertise this case for that meeting. Then we'll meet with the Cutler's and see how we can fit that structure on that site to accomplish a greater setback than the 7 ft. Once we determine that we'll be able to advertise what the new setback will be.

Mr. Wilson asked could you measure that slab too so we can see how the garage will fit on that?

Mr. Andrew asked I think we have a pretty good idea on that don't we John, 20 ft. by 24 ft.? That's kind of where the garage dimension is from based on the existing slab.

Mr. Burger stated that would coincide.

Mr. Andrew stated we have a pretty good idea that the slab is 24 ft. wide and 20 ft. deep or vise versa.

Item #3. Other matters.

Mr. Andrew asked do we have another case filed for the 20th of September John?

Mr. Burger stated at this point we do have another case filed.

Mr. Andrew stated we have another garage setback case filed for the 20th of September. And we're sure it's a garage.

Mr. Schmitt asked officers, is that this month or next month?

Mr. Andrew stated I'm not sure on everyone's terms but some will terminate at the end of August. I didn't get any notes or anything about reappointments. If you didn't get any notice in the mail or an expression of interest form from the Clerk's office it means that most members are going to carry over.

Mr. Schmitt stated I received it and I sent it back that I would.

Mr. Andrew stated in September we will have our annual meeting which is the Election of Officers and things of that nature. The same would go for the Planning Commission or other boards. On all of our appointed boards people's terms run until the end of August and if you request and are interested in reappointment those all go to the Mayor and the Mayor will

sometime in August make new appointments and reappointments and we'll convene in September and have the election of officers.

Mr. Schmitt asked is there anything else?

Mr. Andrew stated I don't think we have anything else for you this afternoon.

Mr. Schmitt stated seeing no other matters we are adjourned.

Meeting adjourned at 4:44 p.m.

Dean Andrew, Secretary

ATTEST